

REMARKS

The Office Action dated February 6, 2008 has been carefully considered. Claims 1-9, 27-33, 36, 39-48, 99 and 100 are allowed. Presently, there are no amendments to the claims. The Specification is amended to include additional information about the ATCC deposit.

Applicant's representative conducted a telephonic interview with Examiner Joike on May 28, 2008. Agreement was reached that the statements made in the Declaration under 37 C.F.R. 1.132 were not contradicted by the statements in the Petition to delete inventors and as such, the rejection under 35 U.S.C. 102(e) is overcome.

A Terminal Disclaimer is submitted herewith in response to the double patenting rejection of claim 10.

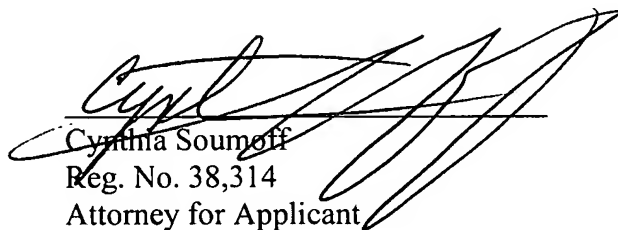
Claims 26, 34 and 35 were rejected under 35 U.S.C. 112, first paragraph as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and or use the invention.

The rejection was originally made on the basis that the deposited biological material was not shown to be readily available. Without conceding that a deposit was necessary to satisfy 35 U.S.C. 112, Applicants herein state that an additional deposit of the bacterial strains at issue was made on May 8, 2008 under the Budapest Treaty without restriction to accessibility, consistent with 37 C.F.R. 1.808. For all the above reasons, it is believed that the claims are in compliance with 35 U.S.C. 112, first paragraph.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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